

MINUTES OF THE CITY PLANNING COMMISSION

J. MARTIN GRIESEL ROOM

June 6, 2003
9:00 AM

Present: Appointed Members: Terry Hankner, Caleb Faux, Jackie McCray, Peter Witte; Water Works Director David Rager; Councilmember Jim Tarbell; Community Development and Planning Staff: Peg Moertl, Director; Skip Forwood, Acting Chief Planner

Ms. Hankner called the meeting to order.

CONSENT ITEMS

Item #1 was removed from the Consent Agenda.

REPORT AND RECOMMENDATION FOR THE SALE OF 2135-2145 W. EIGHTH STREET IN LOWER PRICE HILL.

National Marketshare occupies a former bank building at Eighth and State and has invested approximately \$4 million into this building. The company started with 9 employees and has since grown to 28 employees in 2002. National Marketshare is a general merchandising company conducting business nationally and worldwide. The city is proposing to sell vacant land at 2135-2145 W. Eighth Street to B&B Real Estate Investment and Management Group, Ltd. (National Marketshare, land hold entity) for \$100. The purchaser commits to develop a parking lot for National Marketshare and retain the 28 jobs. The appraised fair market value of the site is \$90,000. Staff recommends approval.

REPORT AND RECOMMENDATION FOR A PLAT OF SUBDIVISION FOR TAFT ROAD TOWNHOMES SUBDIVISION IN WALNUT HILLS.

Taft Road Townhomes Subdivision contains .8507 acres and is located at the intersection of William Howard Taft Road and Chatham Street west of Stanton. The site is zoned R-5 Multi-family Medium-density. The Plat of Subdivision contains six new lots in addition to a future development lot for additional row house townhomes. The subdivision contains no new streets. The plat provides for necessary private storm sewer easements. Staff recommends approval.

Motion: Mr. Rager moved approval of Consent Items 2 and 3.

Second: Mr. Faux

Vote: All ayes (5-0), motion carries.

DISCUSSION

REPORT AND RECOMMENDATION FOR THE SALE OF A PORTION OF CARNEY STREET.

Steve Briggs, Senior City Planner, stated this portion of Carney Street is located southeast of the wall on Carney Street. This property is about 2,000 square feet in size. One of the abutting property owners (Liebel and Warner) has petitioned the city to have either a curb cut, an easement or a revocable street privilege or to purchase the property. There is a height restriction on the Liebel and Warner property which also applies to the sale of the city property. The height would limit the height of new construction above Carney Street to a single-story. The existing zoning is R-6 and is in Environmental Quality Hillside District #4. Any building or structure proposed for the properties would have to go through a series of hearings and a decision by a hearing examiner before a permit could be issued. Staff recommends approval.

Jackie McCray asked about the height restriction. Mr. Briggs responded that the height restriction for the Liebel and Warner property is in favor of 974 Pavilion which was worked out a number of years ago. Mr. Briggs stated that if there were an Environmental Quality Hillside hearing, there would be view shed and height analysis at that time.

Mr. Faux stated that if the city refuses to allow access to the Warner and Liebel property that the city could potentially be forced to acquire the Warner and Liebel property. Mr. Faux stated that if the Commission approves this, there could be other properties where the same situation exists. Mr. Briggs responded that there are about six other properties in the same circumstance in this general area.

Ms. Hankner asked Mr. Davignon of the City Solicitor's Office for his input. Mr. Davignon responded that it is not clear-cut what the obligation of the city would be.

Mr. Tarbell asked when Warner and Liebel purchased the property. Peter Koenig (attorney for Liebel and Warner) responded in 1978. Mr. Tarbell asked when the covenant with 974 Pavilion was established. Mr. Koenig responded in 1997.

Peter Koenig, 300 Fourth and Walnut Center, 105 E. Fourth Street, 45202, is an attorney representing Craig Liebel and Michael Warner, the owners of 993, 995 and 997 Carney Street. Liebel and Warner acquired the property in 1978 with a view of some day developing the property when engineering technology allowed. This is not a view issue but it is an access issue. Mr. Koenig stated that the city's obligation is quite clear and access must be provided, as this is the only means of access to his clients' property. Mr. Koenig stated that his clients only want access; they initially filed in August 2001 and worked with Engineering to provide for proper breaching of the wall. Mr. Koenig stated that Transportation and Engineering approves this plan. Mr. Koenig stated that he spoke to the president of the Hillside Trust who acknowledged that the Hillside Trust is taking no position at this time until there is a plan to comment on. There

is a severe height restriction on 993, 995 and 997 Carney Street which was recorded on July 7, 1997. The height restriction is 992.5 feet above sea level which is to the top of the garage at 974 Pavilion Street. There were street vacations in 1981 and 1994 for Fort View Place which used to come all the way up to Carney which was the only access that Liebel and Warner had to their property.

Mr. Tarbell stated that his understanding is that the view issue is what is perceived to be a pedestrian public view corridor. Mr. Koenig stated that in Ohio there is no right to such public view. He shared a picture showing housing that no longer exists in the vicinity of this property.

Mr. Koenig stated that his clients have a constitutional right to have the city or Park Board acquire their property or provide access. This has been studied internally for a number of years.

Ms. Hankner acknowledged receipt of Mr. Koenig's letter and fax this morning.

Larry and Lainie Boberschmidt, 1111 Carney Street, 45202, stated that at one time there was an opportunity to have access to the property, but the owners passed on the opportunity. Mr. Boberschmidt stated that in addition to a view issue, there is a safety issue due to cutting holes in the walls, emergency vehicle passage issues and parking issues.

Paulette Jahnke, 948 Hatch Street, 45202-1534, has been a 30 year resident of Mt. Adams. This property can be developed but probably will not be if the sale is not approved. View access is what Mount Adams is all about. There are 11 recognized public view corridors in Mt. Adams, two of those are gone and there are nine left.

Tina Russo, 1001 Paradrome Street, 45202, stated that she is an active member of the community and is on the zoning committee. She is opposed to the sale of the property. She wants the views protected all over the city. Previous reports have recommended not developing this hillside. She shared a picture of the view as it exists and a picture showing what the view would look like with a one-story building on the site.

MR. WITTE ENTERED THE ROOM

Kathleen Hueneman, 953 Hatch Street, 45202, stated that she is a resident and member of the civic association in Mt. Adams. Ms. Hueneman stated that the civic association has been working on having an ordinance passed regarding view corridors. Mr. Hueneman stated that she lives in the same house she grew up in.

Joyce Miller, 1006 Paradrome, 45202, stated that she is speaking on behalf of the Mt. Adams Civic Association's Zoning Committee. Ms. Miller feels it is important to hear from people like Ms. Hueneman whose property is not affected but feels very strongly about the view. Ms. Miller asked if the city could sell the piece of property for more money. Mr. Tarbell responded probably not by itself.

Ms. Moertl stated the sale of city land is done one of two ways. In some cases for developable or redevelopable land the city might put it up for sale or in this case, the abutting property owners or others may approach the city for a sale of property. An appraisal is done of the land and the land is typically sold for fair market value.

Skip Forwood stated that the lot now has frontage on city property on a public street. If the property were sold, there would no longer be access from a public street and the Warner Liebel property would be landlocked.

Ms. Miller stated that the civic association would provide the material submitted to the City Manager, City Council and Ms. Moertl. Ms. Miller stated that Councilmember Crowley submitted a motion that specifically asks the administration to look into the development of protective view corridor legislation. Ms. Miller stated that the civic association is excited about the new zoning code as it should promote lower density single-family homes in Mt. Adams.

Sally Gronauer, 1235 Ida Street, 45202, stated that her concern is the type of development that would be allowed if the sale is approved and a curb cut is approved. Corky Steiner, 1112 Fort View Place, 45202, stated that he has lived in Mt. Adams since 1967. He summarized a letter that was faxed to Steve Briggs. Mr. Steiner stated that the 1981 street vacation has nothing to do with this property.

Caleb Faux stated that he feels this particular view is of great importance to the city and in this particular case the Planning Commission should not facilitate development of this property that would block this view.

Motion: Mr. Faux moved to disapprove the staff's recommendation for sale of this property.

Second: Mr. Witte

Mr. Rager asked if staff has considered what will happen with the other adjacent properties and how access will be given if those owners made the same argument. Mr. Briggs stated that the owners would have to make the same argument because Carney Street is the only access for those parcels. Mr. Rager asked if there is any way to have access to all the properties with one curb cut. Mr. Briggs responded that has not been considered but is a worthy consideration.

Mr. Koenig stated that in working with Transportation and Engineering safety and access issues were addressed.

Mr. Tarbell stated that he is very frustrated with the lack of clarity from the legal department and is not comfortable going ahead with this today. Mr. Tarbell would like to think there is a middle ground that honors the ownership and the legal question that needs to be answered and what the public wants. He requested the motion to be withdrawn and have one more opportunity to have clarity from the legal department and

for all the parties involved to have another discussion outside the City Planning Commission.

Mr. Faux stated that he would like to amend the motion to include a statement that it is the position of the Planning Commission “that protection of a public view such as this is in fact a valid public purpose on the part of the City of Cincinnati.” He asked that the motion be tabled until such time that advice can be received from the City’s legal counsel.

Motion: Mr. Faux moved to amend the motion to include the statement “that protection of a public view such as this is in fact a valid public purpose on the part of the City of Cincinnati.

Second: Mr. Witte

Vote: All ayes (6-0), motion carries.

Motion: Mr. Faux moved to table this item until such time that advice can be received from the City’s legal counsel.

Second: Inaudible.

Vote: (4-2), motion is tabled.

REPORT AND RECOMMENDATION FOR A CHANGE OF ZONING FROM R-3 TO R-5 AT THE NORTHWEST CORNER OF WASSON ROAD AND MARBURG AVENUE IN OAKLEY.

Stephen Briggs, Senior City Planner stated that this zone change is being proposed to allow an increase of density on a 4.5-acre parcel that contains about 28 existing rental units. If the zoning is changed, the proposal is for an active adult community with about eight buildings. This would have to go through a Planned Development Review for an active adult community which will consist of townhouses, row houses and condominiums. The developer, The Ackerman Group, has been working with the community and has had numerous meetings with surrounding property owners and neighbors. The applicant handed out material that explains what is happening. Staff is recommending approval of this zone change with the idea that this will allow for a greater variety of housing in the Oakley community.

Tim Fischer, Esq, 3507 Aultwood, 45208, represents Elizabeth Harding and Paul Fiarelli who live on Glenhurst Place. Mr. Fischer stated that there is some previous correspondence from his clients to the city staff in opposition to the zone change. Since that time, they have met with the developer and the Oakley Community Council and expressed their concerns. The developer has made some concessions that address their concerns and they are now withdrawing their opposition to the zone change.

Motion: Mr. Tarbell moved approval of the staff report.

Second: Ms. McCray

Vote: All ayes (6-0), motion carries.

JACKIE MCCRAY LEFT THE MEETING.

Peg Moertl stated that the Mt. Adams Community Members asked when the City Planning Commission would consider the sale of a portion of Carney Street issue again and that they be notified. Ms. Hankner stated that the issue would be considered again at the July 25, 2003 meeting.

REPORT AND RECOMMENDATION FOR THE LOWER PRICE HILL INDUSTRIAL AREA URBAN RENEWAL PLAN.

Katherine Keough-Jurs stated that the consultant had to leave, as he is ill. Ms. Keough-Jurs presented the final draft of the Lower Price Hill Industrial Area Urban Renewal Plan and comments have been incorporated into the plan from the Planning Commission, stakeholders and other city departments. There are some minor changes still being made. Ms. Keough-Jurs stated that the correct blight study was given to the Commission Members and is available to those in attendance. The most significant change to the plan was by the Planning Commission which was to focus on the industrial area. The recommendations have been grouped in short-term, near term and long term. The short-term recommendations include the consolidation of clean up of dilapidated parcels in order to spur private sector development which is the number one goal of this plan. The near term and long term recommendations are not possible without the completion of the short-term recommendation.

The stakeholders within the boundary are very supportive of this plan. There are concerns from some surrounding residents about the taking of residential property. Staff has tried to keep residential property out of the boundary area because it is an industrial plan. Within the boundary, about one-third of the buildings are residential and about two-thirds of those are in within an M-2 zone.

Walter Schuler, VIP, 1400 State Avenue stated that he owns 10 lots opposite 1400 State Avenue and the property in the middle of the 10 lots cannot be developed because there is a storm sewer line running through it. Ms. Hankner suggested that Mr. Schuler speak specifically about his property with staff outside the meeting.

Tom Breidenstein, 105 E. Fourth Street, #500, 45202, owns property in the southwest section of the study area. Mr. Breidenstein stated that his concern has been addressed and urges the City Planning Commission to pass this on to the City Council with approval.

Daniel Guigui, 1910 South Street, 45204, owns the Down Décor and Ohio Feather Co. that manufactures feather and down products and processes feathers. Mr. Guigui stated that Queen City Barrel surrounds his company. Ms. Keough-Jurs stated that she spoke with Mr. Guigui's father and that staff realizes that it would be very difficult to relocate this company and that this company is a good operating business for the neighborhood and is duly noted to be kept and worked around. Mr. Guigui is concerned about the blight area and eminent domain.

Eileen Gallagher, 656 Neave Street, 45204 with the Lower Price Hill Community Forum referred to a guest column in the Cincinnati Post. Ms. Gallagher stated that as many people live in Lower Price Hill as work there.

Motion: Mr. Faux moved to adopt the Lower Price Hill Industrial Area Urban Renewal Plan dated 6/2003.

Second: Mr. Rager

Vote: All ayes (5-0), motion carries.

ADJORNMENT

With no further business to consider, the meeting was adjourned.

Margaret M. Moertl, Director
Community Development & Planning

Terry Hankner, Pro Tem Chairman

Date:_____

Date:_____